

**MINUTES OF THE COMMON COUNCIL  
WORK SESSION  
July 27, 2010  
City Council Chambers – Rouss City Hall**

**PRESENT:** President Jeff Buettner; Councilor Evan Clark, John Hill, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor (8)  
**ABSENT:** Vice-Mayor Michael Butler (1)

President Buettner called the meeting to order at 5:30 p.m. and asked for a motion to amend the agenda to add the nominations listed on the green sheet.

Vice-President Major moved to amend the agenda. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**New Business:**

**Presentation:** Proposal for Glass Steagall Resolution – Stu Rosenblatt & Kathleen Erickson – POSTPONED

**Discussion/Approval** – Priorities for Future VDOT Urban Program Projects

**President Buettner recused himself from the discussion.**

Utilities Director Perry Eisenach introduced representatives from VDOT who were present to answer any questions Council may have from the discussion. He stated the Urban Program is used to construct arterial streets in the city. A vast majority of the funding comes from the federal and state governments with the city responsible for only 2%. The highest priority set a few years ago for the city was to widen Weems Lane. However, he presented new projects for Council to consider – the Hope Drive Extension, the Valley Avenue Drainage Project by Tevis, the Meadowbranch Extension, and the South Loudoun Drainage Project. When South Loudoun/Papermill Road was widened, it caused increased drainage problems in the area that need to be addressed. Mr. Eisenach recommended the drainage improvements be the highest priority. There was not a mistake in the widening project but more improvements need to be addressed downstream. The Hope Drive Extension would be next and then Weems Lane in the priority order.

Vice-President Major stated he likes the street extensions but is more concerned about the drainage problems on Loudoun Street and Valley Avenue. He asked which drainage area has more impact on the property owners. Mr. Eisenach

stated that will be hard to qualify. His staff is trying to manage with the funds they have available but drainage is a problem in Winchester.

Vice-President Major stated he would fix the drainage problems.

City Manager Jim O'Connor stated a temporary fix has been completed on Valley Avenue but the issue will need to be addressed soon.

Mr. Eisenach stated when the work was done on Valley Avenue and Southwerk Street, it laid the foundation for the work on Valley Avenue. There are two separate issues on Valley, one at Whitlock and one at Tevis.

Councilor Veach moved to set the priorities list as South Loudoun Drainage, Valley Avenue Drainage, Hope Drive, and then Weems Lane Widening.

Councilor McInturff clarified that the priority was for Valley and Tevis Street.

*The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-44:** Resolution – Amendment of Frederick-Winchester Service Authority Articles of Incorporation

Mr. Eisenach stated currently a joint member of the Service Authority is appointed by the City and the County. This person is the only one that is compensated at \$1,800 a year. The Authority would like to compensate the chairman at \$2,400 a year instead of the joint member.

Vice-President Major moved to forward R-2010-44 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**R-2010-45:** Resolution – Virginia Department of Fire Programs FY11 Training Mini Grant Application

Captain Scott Kensinger stated the application is for grant funding used for additional classroom training.

Vice-President Major moved to forward R-2010-45 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**R-2010-46:** Resolution – Virginia Department of Fire Programs FY11 VFIRS Hardware Grant Application

Captain Kensinger stated the application is for grant funding to purchase computer hardware.

Mayor Minor moved to forward R-2010-46 to Council. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**O-2010-42:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-7 OF THE WINCHESTER CITY CODE TO FACILITATE A CODE UPDATE / TEXT REVISION PERTAINING TO THE WINCHESTER FIRE AND RESCUE DEPARTMENT

Mr. Kensinger stated there are two entities no longer in operation listed in City Code. The amendment would remove both entities.

Councilor Clark moved to forward O-2010-42 to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**CU-10-211:** Conditional Use Permit - Request of George Solano dba George's Pizza and Subs for a conditional use permit for a pool and billiard room at 1202 Berryville Avenue (Map Number 177-02-11) zoned Highway Commercial (B-2) District.

Zoning Administrator Vince Diem stated the proposed space for the new use exists in the current structure. The Planning Commission reviewed the application at the July 20, 2010 meeting and recommended approval with conditions. The applicant has addressed issues regarding the rear entrance as far as relocating the dumpster and grease containers and cleanliness. The screening of the dumpster and fencing off the steep pavement is in the works. There have been no problems with ABC licensing but the applicant has had issues with payment of taxes (condition #9). Staff is unopposed to the proposal.

Councilor McInturff asked Ms. Burkholder to comment on the tax issue. Ms. Burkholder stated that George's Pizza has been late filing taxes but is currently up to date except for \$80.00 in penalties.

Councilor McInturff asked what options Council has with Condition #9. Mr. Diem stated subsequent failure to maintain payments would create an opportunity for staff to return to Council.

Councilor Veach expressed his concern for parking lighting. Mr. Diem stated Council could impose a condition for additional lighting.

Councilor Veach amended the proposal to include parking lights for safety and security. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

Vice-President Major moved to forward CU-10-211 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**O-2010-36:** First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 14, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CERTIFICATES OF APPROPRIATENESS TA-10-247

Mr. Diem stated the Historic Guidelines Review Committee identified areas to make a more efficient process for changes to be made administratively. The changes were received well by the Planning Commission and forwarded for approval. The ordinance will also allow for increased civil penalties for unauthorized demolition, set a specific date of 1940 as a date for the time period of significance, and relaxes the qualifications for members to have architectural design knowledge and experience.

Vice-President Major expressed concern with the penalty section specifically if a rouge BAR gave permission to tear down a building. Mr. Diem stated there is an appeal process that Council can use in that instance.

Councilor Willingham asked if there were any issues with the penalty holding up in court. City Attorney Anthony Williams stated there is not an issue with attaching the penalty to the structure. It is better to have an arbitrary figure than a set figure.

Councilor McInturff moved to forward O-2010-36 as is. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**O-2010-37:** First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLE 17 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO NONCONFORMING USES TA-10-332

Mr. Diem stated the ordinance amendment is a direct result of legislative changes.

Vice-President Major moved to forward O-2010-37 to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**O-2010-38:** First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 8, 9, 13, 15, 15.1 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ASSISTED LIVING FACILITIES TA-10-333

Mr. Diem stated an effort came out of the General Assembly that puts assisted living facilities and group homes on an equal playing field. This is an effort to bring the Zoning Ordinance into alignment with the Code of Virginia.

Mayor Minor moved to forward O-2010-38 to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**O-2010-39: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 20 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE BOARD OF ZONING APPEALS TA-10-334**

Mr. Diem stated the ordinance would establish a filing fee for an appeal that is no more than the regular filing fees. The proposal is to maintain the base filing fee at \$500 plus \$100 for each additional section and set a \$200 filing fee for appeals.

Mayor Minor moved to forward O-2010-39 to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**O-2010-40: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FAMILY DAY HOMES TA-10-337**

Mr. Diem stated the ordinance establishes a definition and use provisions for assisted living facilities within the Zoning Ordinance.

Vice-President Major moved to forward O-2010-40 to Council. *The motion was seconded by Councilor Clark then unanimously approved by voice-vote.*

**O-2010-41: First Reading - AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 8 AND 10 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS AND USE PROVISIONS FOR BODY-PIERCING SALONS AND TATTOO PARLORS TA-10-340**

Mr. Diem stated Draft 3 of the ordinance went through the Planning Commission and defines tattoo parlors and further distinguishes those from professional offices. The intention was to establish a definition and district classifications where tattoo parlors would be allowed by right. Existing establishments would automatically become non-conforming unless they expand, cease operation for 2 or more years, or relocate. Today, staff produced Draft 4 as an alternate to take into consideration existing establishments downtown. This draft allows for Conditional Use Permits in the RB1 and B1 districts for existing establishments to expand if they choose to.

Councilor Clark asked if there had been an increase in the number of police calls. Mr. Diem stated the calls have been for loitering and language outside of the establishments that Zoning does not address.

Councilor McInturff moved to forward Draft 4 to Council. The motion was seconded by Councilor Willingham.

Vice-President Major expressed his concern that the City is using zoning for policing and singling out businesses and stated he will not support the ordinance.

*The motion passed 7-1 with Vice-President Major voting in the negative.*

**Discussion /Approval:** Fee increase for certain Park and Recreation programs, services, and facilities

Parks & Recreation Director Brad Veach stated the Parks Advisory Board voted to increase the fees after reviewing the fee structure. This is the first time the fees have been looked at since the opening of the Active Living Center to see how that has impacted revenues. Staff has seen a tremendous increase in the amount of usage in the facilities. They want the usage to continue but they also want to be sure costs can be recovered while staying competitive and fair in the price. The proposal is to have one drop in fee to eliminate non-residents paying resident rates. The purchase of a monthly membership will still provide a discount to residents. Based on the Park's history, a 4-6% increase in revenues should be seen from these fee changes. The board would like to implement the fees in the fall.

Vice-President Major noted many of the fees were decreasing instead of increasing and moved to forward the item to Council if it is listed as a fee adjustment and not a fee increase. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**O-2010-43:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-2, 25-17, AND 25-23 OF THE WINCHESTER CITY CODE PERTAINING TO SPECIAL ASSESSMENTS PARTICULARLY IN THE DOWNTOWN DISTRICTS

Director of Old Town Karen Helm stated the ordinance will update the code with items the department is already doing. It also eliminates the requirement for one member to be a representative of an agency affiliated with Old Town since all members have a stake in downtown already. A provision for the removal of a board member was added.

Mayor Minor moved to forward O-2010-43 to Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**O-2010-44:** First Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 16-10 OF THE WINCHESTER CITY CODE PERTAINING TO PUBLIC PROFANITY AND DRUNKENNESS TO PROVIDE FOR REIMBURSEMENT FOR EXPENSES INCURRED BY THE CITY FOR PUBLIC INEBRIATE CENTER USAGE

Major David White stated the ordinance would allow police officers to transport individuals to the inebriate center and recover the costs.

Mr. Williams distributed another version of the ordinance that eliminated paragraph B in order to clean up a section that was previously rescinded by the State.

Councilor Willingham moved to forward version 2 of the ordinance to Council. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

**O-2010-45:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-19 OF THE WINCHESTER CITY CODE REGARDING REAL ESTATE TAX EXEMPTION FOR THE ELDERLY AND DISABLED

Commissioner of Revenue Ann Burkholder stated the real estate tax relief is valuable to the citizens. However, a loop hole in City Code has been found that did not include non-related individuals living in the same house. This will close the loop hole that the State closed in 2008. It will also allow a time deadline for filing that application.

Vice-President Major moved to send O-2010-45 to Council. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**O-2010-46:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-43 OF THE WINCHESTER CITY CODE REGARDING CERTAIN HOUSEHOLD GOODS AND PERSONAL EFFECTS EXEMPT FROM LOCAL TAXATION

Ms. Burkholder stated State Code allows 10 categories to be exempt but City Code only has 8 of the categories. Antique Vehicles and All Terrain Vehicles and Off-Road Motorcycles are not included. The ATV and motorcycles are not registered and would be difficult to tax. Antique Vehicles are registered by are very difficult to assess fairly. Staff would be able to provide a standard and require the owners to argue the difference.

Vice-President Major moved to forward O-2010-46 exempting both Antique Vehicles and ATV and Off-Road Motorcycles. *The motion was seconded by Mayor Minor passed 6/2 with Councilors Clark and McInturff voting in the negative.*

**R-2010-47:** Resolution – Approval of proposal from OakCrest Companies for redevelopment of 29-31 and 33-35 East Boscawen Street (former Social Services Building)

Economic Redevelopment Director Jim Deskins stated the resolution authorizes the acceptance of a proposal to enter into a private-public partnership with OakCrest Companies for the property at 29-31 and 33-35 East Boscawen Street. The private part would renovate the building for 8 apartments and develop 2,500 square foot for use of the city. The area would be leased to the City for a period of 27 years.

Vice-President Major moved to forward R-2010-47 to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Appointment:** Motion to appoint John Hill and John Willingham as members of the Winchester-Frederick County Metropolitan Planning Organization and Les Veach as the City's alternate member.

Vice-President Major moved to approve the appointments. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Nomination:** Motion to appoint Rebecca Ebert as a Non-Profit Sector member and Bill Hottel as a Private Sector member of the Winchester-Frederick County Tourism Board for a three year term expiring June 30, 2013.

Vice-President Major moved to forward the nominations to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Nomination:** Motion to re-appoint Dario Savarese as a Private Sector member of the Winchester-Frederick County Tourism Board for a three year term expiring June 30, 2013.

Vice-President Major moved to forward the nomination to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Nomination:** Motion to re-appoint Allyson Pate as a member of the Social Services Advisory Board for a four year term expiring March 31, 2014.

Councilor Clark moved to forward the nomination to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Nomination:** Motion to appoint Jeff Webber and William Bayliss and re-appoint John "Shep" Campbell, Harry Smith, and John Schroth as members of the Handley Board of Trustees for a six year term expiring June 30, 2016.

Mayor Minor moved to forward the nominations to Council. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

**Nomination:** Motion to re-appoint John Schroth as a member of the Frederick-Winchester Service Authority for a three year term expiring August 31, 2013.

Vice-President Major moved to forward the nomination to Council. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*

**Executive Session:** MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR CONSULTATION WITH LEGAL COUNSEL AND TO RECEIVE LEGAL ADVICE,



AND FOR DISCUSSION CONCERNING THE DISPOSITION OF AN INTEREST IN REAL PROPERTY PURSUANT TO §2.2-3711(A)(3) OF THE CODE OF VIRGINIA WHERE THE PUBLIC DISCLOSURE OF SUCH INFORMATION COULD HAVE AN ADVERSE EFFECT ON THE CITY'S BARGAINING POSITION.

Vice-President Major moved to convene into executive session at 7:11 p.m. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Councilor Willingham moved to reconvene in open session at 7:52 p.m. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Upon returning, council members approved a motion to return to open meeting and each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

MEMBER	VOTE
President Buettner	Aye
Vice-Mayor Butler	Absent
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President Major	Aye
Councilor McInturff	Aye
Mayor Minor	Aye
Councilor Veach	Aye
Councilor Willingham	Aye

### **Adjournment**

Councilor Willingham moved to adjourn the meeting at 7:53 p.m. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*